



WYOMING MINING ASSOCIATION

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PROPOSED RULE **FR 170+171**
(68FR16374)

May 5, 2003

Secretary
U.S. Nuclear Regulatory
Commission, Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

Gentlemen:

Subject: Wyoming Mining Association's (WMA's) Comments on Revision of Fee Schedules; Fee Recovery for FY 2003; Proposed Rule

The Wyoming Mining Association is an industry association representing mining companies, contractors, suppliers, vendors and consultants that comprise Wyoming's mining industry. Among its mining company members are several uranium recovery licensees including the only company actively producing uranium via in-situ mining in the United States and one of the remaining four (4) conventional uranium mills remaining in the United States that are not in some stage of reclamation. The Association has reviewed the proposed rule and has the following comments:

1. Changes in Annual Fees

The Commission has proposed the following annual fees for source material recovery licensees:

Class I facilities (Conventional uranium mills)	\$64,800
Class II facilities (In-situ leach recovery facilities)	\$54,300

The table below contains previous year (Fiscal Year 2002) fees:

Class I facilities (Conventional uranium mills)	\$77,900
Class II facilities (In-situ leach recovery facilities)	\$65,200

The Nuclear Regulatory Commission (NRC) has reduced the fees for uranium recovery licensees for Fiscal Year 2003 as shown in tables above.

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The Wyoming Mining Association (WMA) strongly supports this reduction. The domestic uranium recovery industry has been adversely impacted for many years by low cost imported foreign uranium often from pre-existing Cold War stockpiles produced under non-free market conditions. This reduction in annual fees for uranium recovery licensees surviving in a time in which spot market prices are \$10.75 per pound (Uranium Exchange - April 28, 2003) is a welcome relief. This decrease in annual fees is a result of the Commission's proposal to rebaseline its annual fees. The Association supports the decision to rebaseline for FY 2003.

2. Hourly Charges

Hourly charges have again increased for materials licensees from \$152.00 per hour to \$158.00 per hour. This is a substantial increase. The Association believes that the following steps should be taken to reduce the impact of this increase on uranium recovery licensees:

2.1 Regulatory Streamlining

The Commission should do everything possible to reduce the amount of time spent by staff working on licensing issues related to uranium recovery licenses. One area of substantial savings is regulation of in-situ leach wellfields. Regulation of wellfields should be delegated to the States under a program of Memorandums of Understanding (MOUs) especially in states such as Wyoming with strong, organized and long established regulatory programs for in-situ wellfields.

2.2 Project Manager Charges

The Office of Nuclear Material Safety and Safeguards (NMSS) issued a policy on July 2001 about Project Manager time. Under that policy, if a Project Manger's duties to support a licensee/facility do not exceed 75 percent of the assigned person's time in any given two-week period, then the staff member will be considered a Point of Contact. As a result, that person's time which is not specifically associated with a licensing action or inspection is now recovered through annual fees, a more equitable result since it allows such costs to be spread across a range of licensees. This policy replaced the policy for full cost recovery under part 170 for Project Manger's, which had become effective with the Fiscal Year 1999 final fee rule in response to concerns expressed by materials licensees.

Some uranium recovery licensees including some in standby status have reported more Project Manager (PM) charges on their invoices in spite of the fact that duties related to the site have not changed. The Association is unsure as to why this is occurring. It is important to the Association's uranium recovery licensee members that Project Managers be considered as Points of Contact whenever possible.

3. Other Issues

The Association wishes to raise the following additional point regarding the Nuclear Regulatory Commission's (NRC's) fee structure:

3.1 Diminishing Number of Licensees

Fees for licensees are based upon the recovery of approximately 94% of the agency's budget meaning that 526.3 million dollars must be recovered through fees charged to licensees. As the available pool of licensees diminishes due to individual states becoming agreement states and due to various other reductions in the licensee pool, fees to individual licensees must inevitably increase. This situation, an increasing budget of the agency recoverable through fees (Fiscal Year 2002 - \$479.5 million and Fiscal Year 2003 - \$526.3 million) and a shrinking base of licensees (caused by states becoming agreement states and licensees decommissioning often because they are forced to do so because of the requirements of Timeliness in Decommissioning) cannot be supported indefinitely. In addition, the State of Utah will soon, possibly as early as October 1, 2003, become an Agreement State for uranium recovery facilities, further decreasing the Commission's uranium recovery licensing base

The Association believes that something should be done to address this situation and that it is best addressed sooner rather than later.

The Wyoming Mining Association (WMA) appreciates the opportunity to comment on this proposed rule. If you have any questions please do not hesitate to contact me.

Sincerely yours,



Marion Loomis
Executive Director

Cc: Katie Sweeney - National Mining Association (NMA)